

Crown Pastoral Land Tenure Review

Lease name: BLAIRICH

Lease number: PM 026

Preliminary Report on Public Submissions

This document includes information on the public submissions received in response to an advertisement for submissions on the Preliminary Proposal. The report identifies if each issue raised is allowed or disallowed pursuant to the CPLA. If allowed the issue will be subject to further consultation with Department of Conservation, or other relevant party.

The report attached is released under the Official Information Act 1982.

February

06

TR 095

PRELIMINARY ANALYSIS OF PUBLIC SUBMISSIONS

1. Introduction

Each of the submissions received has been reviewed in order to identify the points raised and these have been numbered accordingly. Where submitters have made similar points, these have been given the same number.

The following analysis summarises each of the points raised along with the recorded number of the submitter(s) making the point. The rationale for the decision whether to allow/disallow the point follows.

The decision to “**Allow**” the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner of Crown Lands (CCL) to consider when making decisions in the context of the Crown Pastoral Land Act 1998 (CPL Act). Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to “**Disallow**”.

2. Analysis

Point	Summary of Point Raised	Sub No.s	Decision
1	<i>Agreement with level of proposed access.</i>	1	Allow

Rationale for allowing point 1

The level of public access is a relevant matter under section 24(c)(i) Crown Pastoral Land Act 1998 (CPLA) and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
2	<i>Support for boundaries in terms of fencelines.</i>	1	Allow

Rationale for allowing point 2

The proposed extent of areas to be designated in accordance with the tenure review is a relevant matter under the CPLA and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
3	<i>Support for covenants</i>	1	Allow

Rationale for allowing point 3

Sound land management, as provided for under the terms of the covenants, is a relevant matter under section 24(a)(i) CPL Act.

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Point	Summary of Point Raised	Sub No.s	Decision
4	<i>Weed and pest management should be co-ordinated.</i>	1	Disallow

The degree of co-ordination of weed and pest management between the owner of the proposed freehold land and the Department of Conservation (DoC), as an administering body of the covenants and land proposed for full Crown ownership and control, is not a relevant matter under the CPLA. Therefore this point is disallowed.

Point	Summary of Point Raised	Sub No.s	Decision
5	<i>Concerns regarding standard covenant terms: ownership and breaches of covenants are the responsibility of future owners and guidelines are required in regards to gifting or sale.</i>	1	Disallow

Rationale for disallowing point 5

The covenant document is a standard template developed by DoC, and its standard conditions are a DoC responsibility. However, this comment will be passed on to DoC for their information.

Point	Summary of Point Raised	Sub No.s	Decision
6	<i>Public access required from 'h' up the Omaka River, to the DoC boundary.</i>	2	Allow

Rationale for allowing point 6

The provision of access is a relevant matter under section 24(c)(i) CPLA, therefore this point is allowed.

Point	Summary of Point Raised	Sub No.s	Decision
7	<i>Public access required from 'h' along the farm road to the boundary at the 'Beehive hut'.</i>	2	Allow

Rationale for allowing point 7

The matter of public access is a relevant matter under section 24(c)(i) CPLA and the point is therefore allowed

Point	Summary of Point Raised	Sub No.s	Decision
8	<i>Public access required from Awatere Valley Road to 'c'.</i>	2	Allow

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Rationale for allowing point 8

The provision of access is a relevant matter under section 24(c)(i) CPLA, therefore this point is allowed.

Point	Summary of Point Raised	Sub No.s	Decision
9	<i>Access required from 'w' downstream to the public access easement.</i>	2	Allow

Rationale for allowing point 9

The provision of access is a relevant matter under section 24(c)(i) CPLA, therefore this point is allowed.

Point	Summary of Point Raised	Sub No.s	Decision
10	<i>Land currently proposed to be freehold subject to a covenant should be designated as Full Crown ownership and control to protect SIVs.</i>	2,5,6	Allow

Rationale for allowing point 10

The level of protection afforded to Significant Inherent Values (SIVs) is a relevant matter under section 24(b) CPLA, therefore the point is allowed.

Point	Summary of Point Raised	Sub No.s	Decision
11	<i>Fenced boundaries should be determined after proper determination of areas that should be grazed or not grazed.</i>	2	Allow

Rationale for allowing point 11

The determination of appropriate boundaries relates to the extent of area requiring protection, which is a relevant matter under the CPLA, and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
12	<i>Suggested change in route from a to b.</i>	3	Allow

Rationale for allowing point 12

Adequate access is a relevant matter under section 24(c)(i) CPLA, therefore this point is allowed.

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Point	Summary of Point Raised	Sub No.s	Decision
13	<i>If "invited guests" are allowed to access easement concession i-j then the public should be able to also.</i>	4	Allow

Rationale for allowing point 13

The level of public access is a relevant matter under section 24(c)(i) CPLA, therefore this point is allowed.

Point	Summary of Point Raised	Sub No.s	Decision
14	<i>Riparian areas should be protected to protect SIVs and promote ecologically sustainable management.</i>	5	Allow

Rationale for allowing point 14

The protection of SIVs is a relevant matter under section 24(b) of the CPL Act, this point is allowed accordingly.

Point	Summary of Point Raised	Sub No.s	Decision
15	<i>The proposed freeholding of land will not promote ecologically sustainable management.</i>	5	Allow

Rationale for allowing point 15

The promotion of ecologically sustainable management is a relevant matter under section 24(a)(i) of the CPL Act, therefore this point is allowed.

Point	Summary of Point Raised	Sub No.s	Decision
16	<i>Public access through the Blairich River valley is inadequate.</i>	5,6	Allow

Rationale for allowing point 16

Adequate access is a relevant matter under section 24(c)(i) CPLA, therefore this point is allowed.

Point	Summary of Point Raised	Sub No.s	Decision
17	<i>There has been inadequate protection of lower lands, where much of Southern Marlborough's unique flora typically occurs.</i>	6	Allow

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Rationale for allowing point 17

If any of Southern Marlborough's unique flora is present on lowland areas on Blairich pastoral lease, they are likely to be significant inherent values. The protection of significant inherent values is a relevant matter under section 24 (b) CPLA, therefore this point is allowed.

Point	Summary of Point Raised	Sub No.s	Decision
18	<i>There has been a failure to adequately assess and describe SIVs</i>	5	Allow

Rationale for allowing point 18

The extent to which proposed designations will protect SIVs under section 24(b) CPLA is informed by adequate assessment and description of SIVs, therefore this point is allowed.

Point	Summary of Point Raised	Sub No.s	Decision
19	<i>Reasons given for freeholding are inconsistent with the CPLA.</i>	5	Allow

Rationale for allowing point 19

The question of whether the proposed freehold designation is consistent with the CPLA is a relevant matter, and this point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
20	<i>Support for CA1 and CA2</i>	5,7	Allow

Rationale for allowing point 20

This statement of support, while one of submitters making the point hedges it against general opposition to the proposal, is allowed under the CPLA.

Point	Summary of Point Raised	Sub No.s	Decision
21	<i>High altitude, erosion-prone land should not be freeholded.</i>	6	Allow

Rationale for allowing point 21

The ecological sustainability of freeholding leasehold land is a relevant matter under section 24(a)(i) CPL Act, therefore the point is allowed.

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Point	Summary of Point Raised	Sub No.s	Decision
22	<i>That an area of land proposed to be freehold, approximately 3 ha in size, be allowed to be purchased by the Marlborough Council for water treatment purposes.</i>	7	Disallow

Rationale for disallowing point 22

The designation of land for a council to utilise for water treatment purposes is not a matter that is provided for under either section 24 or section 25 CPLA. The point is therefore disallowed.

3. Summary

22 points were identifiable from the 6 submissions received. Of these 22 points, 19 were allowed as they are relevant under the provisions of the CPL Act. The remaining three points were disallowed.

In summary, the points raised that have been allowed are:

Support for proposal

- *Support for CA1, CA2, proposed access, and boundaries in terms of fencelines and covenants.*

Public access

- *Public access required:*
 - *from 'h' up the Omaka River, to the DoC boundary.*
 - *from 'h' along the farm road to the boundary at the 'Beehive hut'.*
 - *from Awatere Valley Road to 'c'.*
 - *from 'w' downstream to the public access easement.*
- *Public access through the Blairich River valley is inadequate.*
- *Suggested change in route from a to b.*
- *If "invited guests" are allowed to access easement concession i-j then the public should be able to also.*

Protection of SIVs

- *Opposition to proposed covenants, and preference for that land to be designated as Full Crown ownership and control to protect SIVs.*
- *Riparian areas should be protected to protect SIVs and promote ecologically sustainable management.*
- *Any lowland areas with Southern Marlborough's unique flora should be protected.*

Ecologically sustainable management

- *The proposed freeholding of land will not promote ecologically sustainable management.*
- *Riparian areas should be protected to protect SIVs and promote ecologically sustainable management.*

Inadequacy/paucity of information

- *There has been a failure to adequately assess and describe SIVs*
- *Reasons given for freeholding are inconsistent with the CPLA.*

Need for fencelines to reflect where land should be grazed or not

- *Fenced boundaries should be determined after proper determination of areas that should be grazed or not grazed.*

PRELIMINARY ANALYSIS OF IWI SUBMISSIONS

1. Introduction

The submissions received have been reviewed in order to identify the points raised and these have been numbered accordingly.

The following analysis summarises each of the points raised along with the recorded number of the submitter making the point. The rationale for the decision whether to allow/disallow the point follows.

The decision to “**Allow**” the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner of Crown Lands (CCL) to consider when making decisions in the context of the Crown Pastoral Land Act 1998 (CPL Act). Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to “**Disallow**”.

2. Analysis

Point	Summary of Point Raised	Sub No	Decision
1	<i>The marginal strip along the Awatere River should be fenced to exclude stock.</i>	1	Disallow

Rationale for disallowing point 1

The existing marginal strip along the Awatere River, which adjoins the pastoral lease, is not in the tenure review. The fencing of external boundaries of proposed freehold land is not a relevant consideration under the CPL Act, and the point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
2	<i>Support for proposed conservation areas CA1 and CA2.</i>	1	Allow

Rationale for allowing point 2

The designation of areas to be retained in full Crown ownership and control as conservation areas to protect identified significant inherent values is provided for under section 35(2)(a)(i) CPL Act. The point is therefore allowed.

Point	Summary of Point Raised	Sub No	Decision
3	<i>Support for proposed freehold with covenants (CC1 & CC2)</i>	1	Allow

Rationale for allowing point 3

The use of covenants to protect significant inherent values is provided for under section 40(c)(a) CPL Act. The point is therefore allowed.

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Point	Summary of Point Raised	Sub No	Decision
4	<i>TRoNT wish to work with LINZ to develop an Accidental Discovery Find Protocol.</i>	1	Disallow

Rationale for disallowing point 4

While LINZ will be advised of the iwi's request, the development of such a protocol is not a relevant consideration under the CPL Act. The point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
5	<i>The disposal/sale of these forms of land is opposed, and the lands should be considered as part of the Treaty claims settlement for the Northern Southern settlement.</i>	2	Disallow

Rationale for disallowing point 5

LINZ has previously advised iwi why pastoral leases are not available to form part of Treaty settlement negotiations. The current consultation is confined to the tenure review of Blairich pastoral lease, which is quite separate from the Treaty settlement process. While LINZ will be advised of the iwi's view, the point is not a relevant tenure review consideration under the CPL Act, and this point is therefore disallowed.

Point	Summary of Point Raised	Sub No	Decision
6	<i>Consultation in terms of section 4 Conservation Act has not happened (i.e. to give effect to the principles of the Treaty of Waitangi)</i>	2	Disallow

Rationale for disallowing point 6

Tenure review is mandated under the CPL Act 1998, and the general provisions of the Conservation Act 1987 do not apply. The current consultation is in terms of section 44 CPL Act, and the iwi authority has been consulted accordingly. This point is not a relevant consideration under the CPL Act and is therefore disallowed.

Point	Summary of Point Raised	Sub No.:	Decision
7	<i>The area is considered to be waahi tapu, as Tipuna used the area for hunting gathering and utilising other resources.</i>	2	Allow

Rationale for allowing point 7

While the point appears to be a general one, and difficult to deal with in terms of the review, Maori heritage can be a significant inherent value to be protected under section 24(b) CPL Act. The point is therefore allowed.

3. Summary

Seven points were identified from the submissions received.

Of these seven points, three (supporting the proposed conservation areas and covenants, and identifying the area as being waahi tapu) were allowed as the matters are relevant under the provisions of the CPL Act. The remaining four points (regarding fencing an existing marginal strip, developing a protocol with LINZ, disposal/sale of land prior to Treaty claims settlement and consultation under the Conservation Act) were disallowed as they are not relevant matters to be considered in tenure review under the CPL Act.